IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 12TH SEPTEMBER 2007 / 21ST BHADRA 1929

Bail Appl..No. 5523 of 2007()

CMP.3987/2007 of J.M.F.C.,KASARAGOD

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CRIME NO.246/2007 OF MANJESHWAR POLICE STATION

PETITIONER /1ST ACCUSED:

MUSTAFA, S/O.UMMER, OTAMKALA (HOUSE),
KOTALAMOGARU GRAMAM.

BY ADV. SRI.SOJAN MICHEAL

RESPONDENTS: COMPLAINANT:

STATE OF KERALA REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 12/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No.5523 of 2007

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Dated this the 12th day of September, 2007

ORDER

Application for regular bail. The petitioner was allegedly engaged along with the co-accused in the illicit activity of preparing for sale of arrack in polythene packets when accused Nos.1 and 3 were intercepted by the Police. They had in their possession about 12,000/- packets of arrack each containing 100 ml. Empty packets were also there. 35x5 litres of spirit was also available. They were engaged in the activity of manufacturing arrack from spirit and was taking the same in polythene packets for the purpose of sale. The petitioner was arrested on 13.8.07 and continues in custody from that date.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. It is prayed that the petitioner may be released on bail subject to appropriate conditions. The application is opposed by the learned Public Prosecutor . The learned Public Prosecutor submits that the investigation is not complete. The magnitude of the operation can be guaged from the nature and the quantity of the article seized. The petitioner does not deserve to be enlarged on bail at this stage, submits the learned Public Prosecutor.

3. In the wake of the opposition by the learned Public

Prosecutor, regular bail can be granted to the petitioner only if this court is in a position to entertain the twin satisfactions under Section 41A of the Kerala Abkari Act. I do not find any circumstances which can persuade this court to entertain either of those two satisfactions at the moment. I am satisfied that this petition deserves to be dismissed now.

In the result, this petition is dismissed. I may hasten to observe that the petitioner shall be at liberty to move this court or the learned Sessions Judge for bail at later stage of the investigation, not at any rate, prior to 26.09.07. The police shall, in the meantime, make every endeavour to complete the investigation.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE